

Appeal Decision

Hearing held on 22 August 2023

Site visit made on 22 August 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2023

Appeal Ref: APP/M0933/W/23/3318947

Hard Knotts Bungalow, Leece, Ulverston, Cumbria LA12 0QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mark Hingley against the decision of South Lakeland District Council.
 - The application Ref SL/2023/0027, dated 12 January 2023, was refused by notice dated 2 March 2023.
 - The application sought planning permission for a dwelling without complying with a condition attached to planning permission Ref 5/80/0670, dated 27 June 1980.
 - The condition in dispute is No 5 which states that: Occupation of the dwelling to be constructed on the land shown edged red on the attached plan shall be limited to a person wholly or mainly last employed locally (in either case for a period of not less than one year) in agriculture as defined by Section 290 of the Town and Country Planning Act 1971 or in forestry or a dependant of such a person residing with them or her (but including the widow or widower of such a person).
 - The reason given for the condition is: not stated.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. South Lakeland District Council has merged with Barrow-in-Furness Borough Council and Eden District Council to form Westmorland and Furness Council. The development plans for the merged local planning authorities will remain in place for the area within the new authority until such time as they are revoked or replaced.

Main Issue

3. The main issue is whether or not it is still necessary to continue to limit the occupancy of the dwelling to an agricultural worker.

Reasons

4. Policy CS1.2 of the South Lakeland Local Development Framework Core Strategy (the CS) exceptionally allows new development in the open countryside where it has an essential requirement for a rural location or is

needed to sustain existing businesses. This reflects the National Planning Policy Framework's (the Framework) approach to rural housing which, beyond the growth of rural villages, limits housing to that meeting an identified local need or a number of other specified exceptions, including those required to meet an essential need for a rural worker.

5. The purpose of any marketing exercise is to expose the property to a wide audience of potential buyers. Generally, this is achieved by the duration of the marketing and the comprehensiveness of the marketing activities such as online listing, local and specialist press and 'for sale' boards being displayed at the property.
6. The evidence submitted in support of the appeal demonstrates a marketing exercise that appears to be somewhat passive. There is little evidence of the property being actively promoted by the estate agents by way of local and specialist press and I did not observe a 'for sale' board being displayed at the property at the time of the site visit. This passive marketing is, in this instance, compensated for by the long duration of the exercise, being in excess of 12 months.
7. However, the condition at dispute controls the occupancy of the dwelling only. It was discussed at the hearing that there is no condition or legal obligation that ties the residential property to the neighbouring agricultural buildings and land. The marketing exercise related to the whole of the property, the residential dwelling and adjacent agricultural buildings and land as a single lot. I have no evidence before me to demonstrate that the dwelling was detailed in any particulars or other marketing material as being available separately or that this was promoted as a potential option to would be buyers.
8. At the hearing the Council confirmed that, as evidenced by various applications for agricultural worker dwellings that have been received, there continues to be a demand for agricultural worker dwellings, and I have no substantive evidence before me that would lead me to conclude otherwise.
9. On this basis, because there is evidence of ongoing demand for agricultural worker dwellings and because the marketing that has taken place related to the whole of the property only and not the dwelling separately, I find that it has not been demonstrated that it is not necessary to continue to limit the occupancy of the dwelling to an agricultural worker and thus the appeal proposal is contrary to policy CS1.2 of the CS.

Other Matters

10. At the hearing, the Appellant provided verbal evidence of the medical needs of residents of the property. These are material considerations and I give them some weight in the determination of the appeal, but they do not outweigh the harm I have identified previously.
11. Furthermore, I note that the Statement of Common Ground detail that Aldingham Parish Council have not objected to the proposal and that no public representations were received with regards the application. I have had due regard to this in the determination of the appeal.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Hingley

FOR THE LOCAL PLANNING AUTHORITY:

James Sheldrake